

REMARKS

Claims 1-7 are pending in the present application. Claims 4, 6 and 7 have been amended herein to correct the improper multiple dependency. Claims 5 and 7 have been identified as withdrawn in view of the present election.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-4 and 6.

According to MPEP 803, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. Since claims 5 and 7, placed in Group II, are directed to a method of making the product recited in claims 1-4 and 6, which are placed in Group I, by searching one group the Examiner is necessarily searching the other group, since the claims are so closely related. Therefore, it would not be undue burden to search all of the pending claims.

Unity of invention exists when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with PCT Article 33(6), by any additional document considered to be relevant. *See* MPEP § 1850.

In the present instance, the special technical feature is peptide trimer as recited in claim 1. The document which the Examiner uses to allegedly teach the presently claimed invention (USP 5,973,112 to Raines) does not teach each and every element of claim 1, at least, because Raines does not teach a peptide trimer wherein the amino acid residues are tethered to one another, such that they are shifted relative to one another in the backbone direction. Thus, the reference does not serve to destroy the lack of unity of the presently claimed invention. Accordingly, if the

independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding Restriction Requirement.

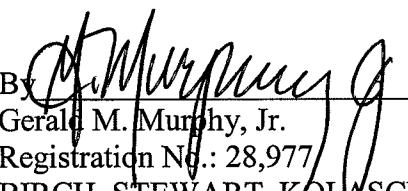
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Registration No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- Attached is a Petition for Extension of Time.
- Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: FEB 23 2009

Respectfully submitted,

By 
Gerald M. Murphy, Jr.
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant